

15

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

EASTERN District of MICHIGANSOUTHERN Division

ANTHONY MICHAEL BUTLER/

DYLAN JOHN EARICK

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

GRETCHEN WHITMER/
DUNCAN BEAGLE/

CHRISTOPHER SWANSON

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case: 1:20-cv-13421

Judge: Ludington, Thomas L.

MJ: Patti, Anthony P.

Filed: 12-22-2020 At 01:27 PM

PRIS BUTLER ET AL V. WHITMER ET AL

(DA)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

ANTHONY MICHAEL BUTLER

All other names by which
you have been known:

ID Number

175287

Current Institution

GENESEE COUNTY JAIL

Address

1002 S. Saginaw St.

FLINT

MI

48502

City

State

Zip Code

(SEE ATTACHED FOR MR. EATRICKS INFORMATION)

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

GRETCHEN WHITMER

Job or Title (*if known*)

GOVERNOR

Shield Number

unknown

Employer

STATE OF MICHIGAN/OFFICE OF THE GOVERNOR

Address

31 S. Capital Ave.

LANSING

MI

48933

City

State

Zip Code

☒ Individual capacity☒ Official capacity**Defendant No. 2**

Name

DUNCAN BEAGLE

Job or Title (*if known*)CHIEF JUDGE OF THE 7TH CIRCUIT COURT

Shield Number

unknown

Employer

7TH CIRCUIT COURT/STATE OF MICHIGAN

Address

900 S. Saginaw St.

FLINT

MI

48502

City

State

Zip Code

☒ Individual capacity☒ Official capacity

Defendant No. 3

Name CHRISTOPHER SWANSON
 Job or Title (if known) SHERIFF
 Shield Number unknown
 Employer GENESEE COUNTY SHERIFFS DEPT. / GENESEE CO.
 Address 1002 S. Saginaw St
FLINT MI 48502
City State Zip Code
☒ Individual capacity ☒ Official capacity

Defendant No. 4

Name _____
 Job or Title (if known) _____
 Shield Number _____
 Employer _____
 Address _____

City State Zip Code
☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

5th - due process
 6th - speedy trial
 8th - cruel and unusual punishment
 & excessive bail
 14th - equal protection of the laws, ~~equal~~ due process

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

N/A

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Gretchen Whitmer "lacked authority to declare state of emergency after 4/30/20. The emergency powers of the Governors act was unconstitutional." as per Michigan's Supreme Court. Her actions were given the appearance of law, which her codefendants in this action acted upon. SEE ATTACHED

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee(s)
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

Governors office 3/16/20 (encl about)
 7th Circuit Court 3/16/20 (encl about)

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

The Plaintiffs were both incarcerated within the Genesee County Jail when their rights were deprived under the Color of law and Authority, beginning 3/15/20

C. What date and approximate time did the events giving rise to your claim(s) occur?

3/10/20 & 3/15/20 - present (12/20/20)

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

Both defendants were deprived of their right to due process, speedy trial, equal protection of the laws, and access to the courts (habeas corpus) by Judge Duncan Bengle suspending the Genesee County Trial courts in March of 2020, he did such by manipulating the executive order given on 3/10/20 and Administrative Order 2020-1. SEE ATTACHED

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

- Mr Butler suffered an abdominal hernia, diastasis recti, on 6/1/20, which he received no medical treatment for, although he made numerous requests for such. Mr. Butler also suffered mental health injuries, diagnosed on or about 12/16/20 by a Dr. McCarthy, specifically "severe anxiety" and "severe single-episode depression" resulting from lengthy pretrial detainment.
- Mr Earick suffers from mental injury, namely anxiety and depression resulting from detainment, diagnosed as well by Dr McCarthy in Nov. 2020.
- Both defendants are suffering from mental decay due to lack of treatment.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

- An injunction preventing shut down of the Trial courts. Explanation - Disease/pandemic is not an acceptable reason to negate inalienable rights
- Inquiry for prosecution for treasonous actions. Explanation - As to deny the Supremacy of the Constitution is in fact Seditious.
- \$1,000,000 for each Civil Right Violation for each Plaintiff (\$30mil total)
Explanation - The Plaintiffs were incarcerated unjustly and denied inalienable rights.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

GENESEE COUNTY JAIL

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

N/A

2. What did you claim in your grievance?

N/A

3. What was the result, if any?

N/A

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

Jail Grievances do not cover the seditious acts of the Governor nor the Chief Judge, and if filed on the Sheriff for unlawful detainment, the Facility would deem it frivolous and deny the forms.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

Sheriff Christopher Swanson
 Captain Jason Gould
 Chief Judge Duncan Beagle

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Both Plaintiffs contacted the Chief Judge, Duncan Beagle regarding the violation of our rights.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

NA

6. Is the case still pending?

☐ Yes

☐ No

N/A

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

N/A

Defendant(s)

N/A

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☐ No

N/A

If no, give the approximate date of disposition

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 12/20/20

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Anthony Michael Butler

Anthony Michael Butler

175287

1002 S. Saginaw St

Flint

MI

48502

City

State

Zip Code

(See Attached for Mr. Erick's signature)

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

Supplemental Attachments # 1

I. A.

NAME - DYLAN JOHN EARICK

I.D. NUMBER - 183502

CURRENT INSTITUTION - GENESEE COUNTY JAIL

ADDRESS - 1002 S. Saginaw St
Flint, MI 48502

Supplemental Attachments

#2

II. D. (cont.)

Duncan Beagle, Chief Judge for the 7th Circuit, used the Governor's executive order in conjunction with Administrative Order 2020-1 to illegally shut down the trial courts, thereby denying the Plaintiffs of their rights to due process, speedy trial, habeas corpus, and equal protection of the law. Christopher Swanson, Sheriff of Genesee County, then illicitly detained the Plaintiffs, who neither have been convicted of any crime, effectively holding the Plaintiffs hostage at the behest of the 7th Circuit Court, as the Plaintiffs are both indigent prisoners, being held on excessive bail, and are being cruelly and unusually punished for a crime neither have been convicted ~~of~~ of.

IV. D. (cont.)

This was all done as a result of Governor Whitmer's illicit executive order. The Plaintiffs were again deprived of another fundamental right; specifically the rights afforded by the 8th Amendment, as they continued to be detained illegally by Sheriff Christopher Swanson, effectively being punished for a crime though no conviction was made, all while being held on an excessive bond/bail. Judges Elizabeth Kelly and E. Kay Behm are aware of such as well as the administration and staff for the Genesee County Jail.

Supplemental Attachments #3

IX. A.

Date of Signing 12/20/20

SIGNATURE OF PLAINTIFF - Dylan J. Earick

PRINTED NAME OF PLAINTIFF - Dylan J. Earick

PRISON IDENTIFICATION NUMBER - 183502

PRISON ADDRESS - 1002 S. Saginaw St
Flint, MI 48502

METROPLEX MI 480
22 DEC 2020 PM 10:14

United States District Court
For the EASTERN District of MI
Office of the Clerk
Theodore Levin United States Courthouse
231 W. Lafayette Blvd - Room 564
Detroit MI 48226

RECEIVED
JAN 07 2021
CLERKS OFFICE
U.S. DISTRICT COURT

48226-271835

1 of 3

Dylan J. Earick #183502
1002 S. Saginaw St
Flint MI 48502

METROPLEX MI 480
22 DEC 2020 PM 2:14

United States District Court
For the EASTERN District of MI
Office of the Clerk
Theodore Levin United States Courthouse
231 W. Lafayette Blvd. - Room 564
Detroit MI 48226

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48226-271835

Dylan J. Earick #183502
1002 S. Saginaw St
Flint MI 48502

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22 DEC 2020 PM 10:14

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For the EASTERN District of MI
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Theodore Levin United States Courthouse
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Detroit MI 48226

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JAN 07 2021
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U.S. DISTRICT COURT

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